

AMENDMENTS TO THE DRAWINGS:

Replacement drawings are submitted for Figures 1a, 1b, 1c, 1d and 6 removing the engineering markings.

REMARKS

The application has been amended to place it in condition for allowance at the time of the next Official Action.

The specification has been amended to address an inconsistency with the term "overlap area".

As recognized in the Official Action, the overlap area is the contact surface between the seal border and the tab. However, as previously recited in claim 17, the sentence "an overlap area inclined at more than 45° from the vertical" is inconsistent with Figures 2b, 2c, 3a, 3b, 4a, 4b, 6 and 7a and the description on paragraphs [0017], [0086] and [0094] of the published application (US2007/0095782).

It appears that the direction of the compression force -as described and defined in paragraph [0017] of US2007/0095782- was unintentionally interchanged with the direction of the overlap area. In order to address this oversight, the recitation of claim 17 cited above is corrected as follows: "an overlap area inclined at more than 45° from the ~~vertical~~ horizontal".

Accordingly, for consistency, "horizontal" replaces "vertical" in the following paragraphs of US2007/0095782: [0042] and [0043). Since such a change is fully supported as set forth above, no new matter is added.

Replacement drawings are submitted for Figures 1a, 1b, 1c, 1d and 6 removing the engineering markings. Since claims 22

and 26 are canceled, the above changes are believed to address the drawing objections, while not adding new matter.

Claims 17-32 were previously pending in this application. Claims 22 and 26 have been canceled and new claim 33 is added. Therefore, claims 17-21, 23-25 and 27-33 are presented for consideration.

Amending claim 17 to remove the number "1" and cancelling claim 22 is believed to obviate the claim objections noted in the Official Action.

Cancelling claim 26 is believed to obviate the 35 USC 112, first paragraph rejection noted in the Official Action.

The claims have been amended to remove the indefinite terms noted in the Official Action and to remove the reference numerals to address the 35 USC 112, second paragraph rejection and withdrawal of the same is respectfully requested.

Claims 17, 19, 23 and 26-30 are rejected under 35 USC 103(a) as being unpatentable over LOFFLER et al. 5,743,420 in view of EMERY 3,664,536. That rejection is respectfully traversed.

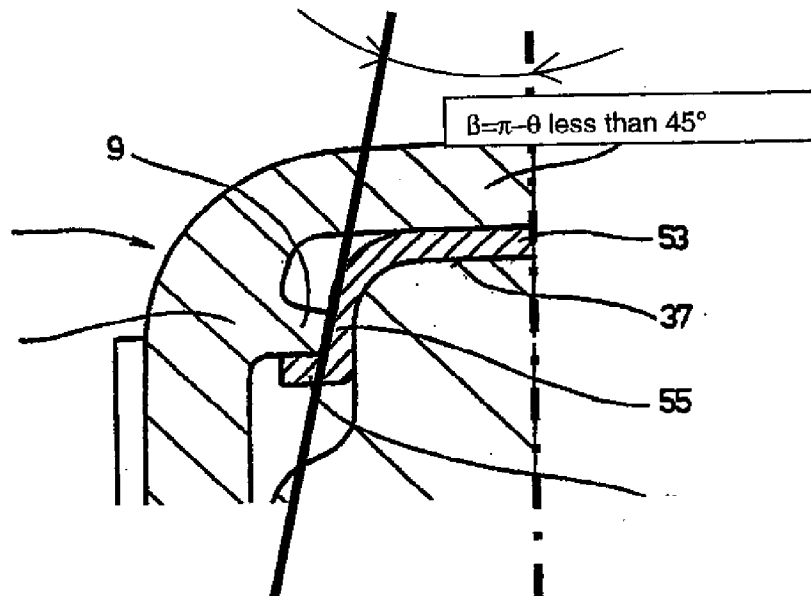
The position set forth in the Official Action is that LOFFLER discloses an angle inclined more than 45°.

The Official Action offers a marked-up version of Figure 8 of LOFFLER in support of this assertion.

However, as set forth above, the signification of "overlap area" has been clarified.

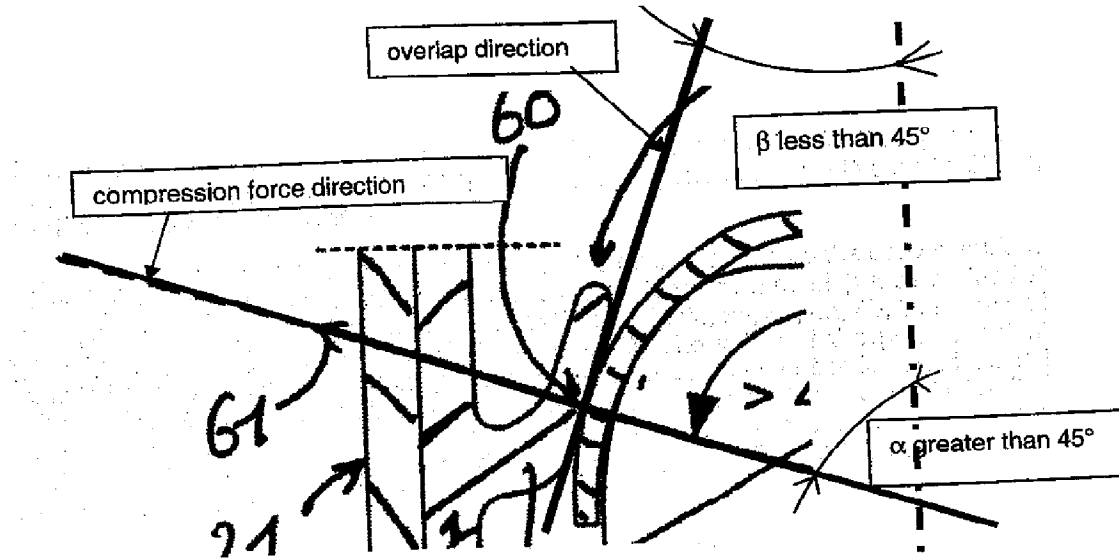
It appears that Appendix A of the Official Action, with annotated figure 8 of LOFFLER, is based on an unusually broad interpretation of the term "overlap area" as this term would be understood by one of ordinary skill in the art.

That is, as the geometry of the bottle neck and the closure cap comprising the insert and the seal is axisymmetric, the overlap area between the seal border and the tab is a conical contact surface. In case of conic surfaces, one of ordinary skill would usually take the $\frac{1}{2}$ angle of aperture at the apex of the cone and, in the case of LOFFLER, the angle to be taken into account should be $\beta = \pi - \theta$, which is much less than 45° .



As an angle is always greater than 45° depending on whether the vertical is oriented upwards or downwards, the Examiner chose θ , i.e. an angle which does not correspond to the angle usually chosen for defining the orientation of a conical surface.

However, to avoid this confusion, claim 17 (and the specification) have been amended to clarify that the angle is with respect to the horizontal. Otherwise, an incorrect interpretation based on the below modified Figure 7 might be reached.



Returning to the rejection, since the "overlap area" is more clearly defined, the recited tab and seal that form such overlap area clearly define over LOFFLER.

That is, the claimed tab comprises a flexible radial end.

By contrast, LOFFLER discloses a seal already shaped and a rigid tab. The rigid tab of LOFFLER is not able to enter and then remain in contact with the seal border during screwing. As the seal is already shaped and the tab is rigid, the contact with the seal is very unforgiving. Moreover, in certain circumstances, e.g. if the bottle has a too small height, this

contact could never occur. Consequently, the combination tab plus seal of LOFFLER is not able to give either regular tight contact between the seal and the neck mouth or regular screwing/unscrewing torque when the bottles (or recipients) to be capped are manufactured with a length varying inside industrial tolerances (see the 2nd and the 3rd objectives of the present invention in paragraphs [0010] and [0011] of US2007/0095782. See also paragraphs [0014] and [0015]).

EMERY does not overcome the shortcomings of LOFFLER set forth above. Accordingly, the proposed combination of references does not meet claim 17 and the claims that depend there from.

Claims 18 and 32 were rejected under 35 USC 103(a) as being unpatentable over LOFFLER in view of EMERY and further in view of STULL 4,651,886. That rejection is respectfully traversed.

STULL does not overcome the shortcomings of LOFFLER and EMERY set forth above with respect to claim 17. Since claims 18 and 32 depend from claim 17 and further define the invention, these claims are believed to be patentable at least for depending from an allowable independent claim.

Claim 20 was rejected under 35 USC 103(a) as being unpatentable over LOFFLER in view of EMERY and further in view of MORTON 5,259,522. That rejection is respectfully traversed.

MORTON does not overcome the shortcomings of LOFFLER and EMERY set forth above with respect to claim 17. Since claim

20 depends from claim 17 and further defines the invention, this claim is believed to be patentable at least for depending from an allowable independent claim.

Claims 21, 24 and 25 were rejected under 35 USC 103(a) as being unpatentable over LOFFLER in view of EMERY and further in view of DAUTREPPE et al. WO00/30948. That rejection is respectfully traversed.

DAUTREPPE does not overcome the shortcomings of LOFFLER and EMMERY set forth above with respect to claim 17. Since claims 21, 24 and 25 depend from claim 17 and further define the invention, these claims are believed to be patentable at least for depending from an allowable independent claim.

Claim 22 was rejected under 35 USC 103(a) as being unpatentable over LOFFLER in view of EMERY and further in view of OBADIA 4,785,952. That rejection is respectfully traversed.

OBADIA does not overcome the shortcomings of LOFFLER and EMERY set forth above with respect to claim 17. Since claim 22 depends from claim 17 and further defines the invention, this claim is believed to be patentable at least for depending from an allowable independent claim.

Claim 31 was rejected under 35 USC 103(a) as being unpatentable over LOFFLER in view of EMERY and further in view of CHRISTMAS 5,971,179. That rejection is respectfully traversed.

CHRISTMAS does not overcome the shortcomings of LOFFLER and EMERY set forth above with respect to claim 17. Since claim

31 depends from claim 17 and further defines the invention, this claim is believed to be patentable at least for depending from an allowable independent claim.

New claim 33 is added. Support for this claim can be found at least in claim 17 and in Figures 2a-2c.

Entry of the above amendments is earnestly solicited. An early notification of allowance is earnestly requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item(s):

☒ - a replacement drawing for each of Figures 1a, 1b, 1c, 1d
and 6